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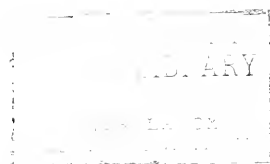
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JOSEPH HODGES CHOATE





LONDON, 1904. REHSFORD

Joseph H. Choate

JOSEPH HODGES CHOATE

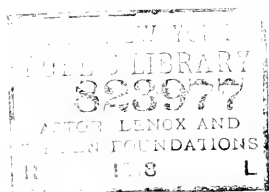
Memorial Addresses

DELIVERED BEFORE
THE CENTURY ASSOCIATION
JANUARY 19, 1918

Resolutions

ADOPTED MAY 16, 1917

NEW YORK
PRINTED FOR THE CENTURY ASSOCIATION
1918



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JOSEPH HODGES CHOATE

BORN JANUARY 24, 1832

DIED MAY 14, 1917

Elected a Member of
THE CENTURY ASSOCIATION
1858

President
1911-1917



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RESOLUTIONS
ADOPTED BY
THE BOARD OF MANAGEMENT

At a special meeting of the Board of Management on January 16th, 1917, to take action on the death of the President of the Century Association, the Honorable Joseph H. Choate, the following resolutions were adopted:

RESOLVED: That the Board of Management, expressing the deep personal sorrow felt by every member of the Century Association, desires to record the peculiar honor and affection in which Mr. Choate has been held as President of the Club. The sense of his intimate and friendly interest in the Association, transcending any purely official relation, has made us all richer in his animating presence. His memory, and our pride in his career, will be among our most treasured traditions.

RESOLVED: That the sympathy of the Association be expressed to the family of Mr. Choate by the sending of a copy of these Resolutions through the Secretary.

HARRY OSBORN TAYLOR,
Secretary.

ADDRESS OF

ELIHU ROOT

PRESIDENT OF THE CENTURY ASSOCIATION

GENTLEMEN OF THE CENTURY:—It is peculiarly grateful to me that the first occasion of performing the duties to which your too partial judgment has called me should be in memory of the noble and dear friend who has been our President during these past years. Many organizations and institutions have done honor to his memory. He was a lawyer whose exceptional talent in some directions rose almost, if not quite, to genius, and the lawyers have with one acclaim paid honor to his memory. He was a diplomatist of the highest quality, and the public men of this country and of Europe have testified to their high appreciation of his work and his achievements. He was a great citizen, imbued with a sense of duty to his country, to the community in which he lived, to his fellowmen,—during all his long life laboring without ceasing ungrudgingly for their benefit.

He was a patron of the arts, for more than forty years devoting his time first in the organization, then in guiding the feeble steps of the Metropoli-

tan Museum of Art, and to the last devoting his time to its service,—as a member of its Board of Trust, a member of its Executive Committee, Chairman of its Law Committee, Vice-President,—never for a moment feeling that the time expended for the education of the people of his own city, his own country, to higher standards of art, education in the love of all that is beautiful, was time wasted.

He was full of human charity. He worked for the poor with deep comprehension of all their troubles, their sufferings, their sorrows. As President of the State Charities Aid Association, as Governor of the New York Hospital, as President of the Society for the Blind,—in all his busy life always ready to give his time and his effort in that cause.

And from all these associations of his long life have come expressions of sorrow over his loss, of admiration for his career, and of gratitude for the things that he accomplished. We meet, we, his old friends in *The Century*, meet for something far different. We meet to celebrate the man as we knew him, his personality. As I look back over his life, with more than forty years of which I was very familiar, it seems to me that, as I sum up what he did in all the directions to which he turned his high abilities, as I sum them all up, the man was greater than they, the man was greater than what he did.

But there is little that we can say or do to perpetuate the memory of that fine and gracious personality. Words may awaken the memories of those who knew him; words may call up from the

hidden layers of consciousness recollections of this incident and that, of this act and that, of the influence of his presence, of the unexpressed and undefined impression which we received; but words can do little or nothing to carry to the minds of those who did not know him or to perpetuate in future generations any conception of what the man was. Garrick said, you will remember: "One common grave covers the actor and his art." That is the universal truth: one common grave covers the person and his personality. All the exquisite, the subtle, the delicate, the lambent, the bright, the shining light of his life must die with us, and lives now only with our memories, and with our memories it must cease to be.

Yet, this is the truest memorial, this memorial of the Choate we knew; and all that the lawyers and the diplomatists and the citizens can say and record and perpetuate in print is but the outside, the shadow of the man we knew. We can say that he had high courage, clear, lofty courage; he feared the face of no man; no power, no dignity abashed him or caused the slightest tremor in that clear and instant courage. We remember the uniform, the constant, bright, and genial cheerfulness under all circumstances, dominant and diffusing itself among all the surroundings.

Grief was not unknown to him; bitter sorrows came into his life, but that beautiful and bright, cheerful courage rose above them all and presented always to the world the same steady and beaming countenance. Serene and imperturbable temper went with him everywhere, under all circumstances. He was never sour, or bitter, or fretful,

or cross; never gave way to passion; never allowed himself to be swayed by personal animosity; of kindly judgment, but not mushy, not a negation of spirit, the kindly judgment that comes from a knowledge of man's infirmities and an even balance of the temptations and the obstacles to right conduct.

I don't know any man with a more genuine interest in human life than he had. The secret of the interest that others found in him, the reason why for so many years in countless banquets and meetings of all kinds he always found something that was interesting and inspiring for his audience, lay in the fact that he was genuinely interested in his audience, interested in everything in life about him, interested in everything that went on in the world.

All those things we remember, and when we put them all together we make some little approach to the reasons why we think of him and feel of him as we do. And there is the reason for his humor: his humor was the reaction of the people and the events about him, his individual reaction; it was not borrowed. He was always interesting because what he gave to his audiences was his own fresh and original way of looking at the events of the times and of studying the characters of the people about him. Every speech that he made was his own contribution to a study of life. He had, I think, in the highest degree what we have no word in our language for and what the French call *esprit*. He of all the men we know embodied to our understanding what they mean by *esprit*. He had what is so rare and what the highest ability and the

longest experience and the greatest achievement do not give: he had distinction; his personality stands up among all those of this great city, of this great country as having distinction;—and he had charm. I cannot define it; we do not know whence it comes; we don't know what it is; we don't know why it is, but he had it; and we can't communicate to anyone else in the world the impression which comes from charm, the charm that he had. He was beyond imitation; he was himself, and there never will be another.

There was a little book—many of you have seen it—privately printed the other day by his family, a few copies printed but not published. Two or three years ago when he was quite ill and was kept in bed by his physicians for wearisome weeks, he yielded to the urgent requests that his family had been making for a long time to leave some account of his early years. Influenced, I think, to some degree by the fact that in undertaking to write a memorial upon an old friend for the Bar Association he had found it so difficult to learn anything about his friend's early life,—lying in his bed he had his secretary come and day by day he dictated some of his early recollections. It is one of the most delightful and charming pieces of literary work that I have ever seen. It is the man himself. And I think that there you find the key to a great deal of his character, and the reason why with all his intellectual force and power, with all the habits of a lawyer, with all the skill with which he used the weapons of sarcasm and of ridicule, nevertheless all who knew him loved him. For there you find that through all his long life he had treasured in

his heart the memories of his early youth in the simple surroundings of his home; they never lapsed back into the past with him; they continued with him always.

He says, "In my bedroom there are the photographs of eighty-five of the members of my college class,"—all but three of that college class from which he separated in 1852; and he says, "I frequently put myself to sleep in calling the roll of the class, which is as familiar to me now as it was when I graduated." He tells how William, his brother, whom we know, led him by the hand when first he was taken, two and one-half years of age, to the Dames' School. He tells about the school and its little incidents. He dwells with peculiar interest and humor upon the records in the family Bible; how the Choates—old seafaring family, born and bred upon the borders of Salem Harbor—recorded the births not only by date and hour but by the state of the tide. "George, born about nine in the morning, just at high tide;" "William, born three in the afternoon, four hours of ebb tide;" and so through the long list. There is something about it evidently that carries him back to old Salem. He dwells with most charming and pathetic love upon the sacrifices that his parents made to send him and his brothers to college. His father,—he says he had known him to pay out what must have been nearly the last dollar in his pocket towards their education;—four brothers in the Harvard Catalogue of 1848–49 at one time; and he says: "This done when the ordinary fees of the hard-working country physician were seventy-five cents for a visit and \$7.50

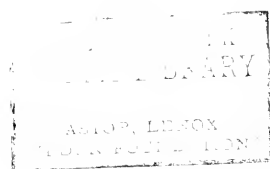
for bringing a new child into the world." And with manifest joy he recounts the pleasure that must have been his parents' when he and his brother sandwiched the college class between them, William, who he says was superior to all other students, having no second, being the valedictorian and he, Joseph—how it happened he cannot tell—made salutatorian, so that they appeared upon the commencement stage at either end of the class.

Those reminiscences carry the very breath of Salem, of old Salem, and when I had read them I took down some volumes of Hawthorne and turned them over; it seemed to me that I was going to a next friend when I did that, and that I found the same charming spirit there. It was that side of his nature, living always, under the brilliant career, under the high endeavor, under the great achievements, that kept him the dear delightful youth that he was, with his blithe spirit and his tender sympathy and his loyalty to friends; it was this that made us love him, and it will keep his memory green in our hearts—the memory of the real man.

In all the long career of *The Century*, it has never done honor to anyone whose spirit it was more honorable to honor than when it made him our President and surrounded his old age with the glory of affection that accompanied him to his end.



JOSEPH H. CHOATE AT HIS GRADUATION IN 1852, AETAT 20



LETTER FROM
THE RT. HON. VISCOUNT BRYCE

LONDON, December 17th, 1917.

DEAR MR. PUTNAM:

Since I cannot be with you on January 19th, I send these few lines in response to your request. During the last forty years, The United States has sent to England a long succession of distinguished men who have worthily represented their country here. When Mr. Choate came, he had a high tradition to maintain and he more than maintained it. We knew his fame as a great advocate and a great American citizen, high-minded and public-spirited. We soon found that he was also a great citizen of the world, understanding Europe, and in particular understanding and appreciating all that was best in England. Himself a characteristic product of New England, he was at home in Old England, and we saw in him how the ancient stock had grown and flourished and what fruit it was bearing in the new Western soil. His ready tact, his spontaneous geniality, his inexhaustible humour, made him the delight of every company he entered. He did

18 Letter from Rt. Hon. Viscount Bryce

not confine himself to the diplomatic duties he discharged so skilfully, nor to the legal gatherings where our Bench and Bar so often welcomed him; but went hither and thither through the country, delivering addresses that were always full of ripe thought and literary grace. No American ever did more to make more close and more tender the ties of affection that bind Britain and America together. No envoy ever left more friends, or warmer friends, behind.

I can never forget the serene dignity and sweetness of his old age when at Stockbridge, in the calm softness of an Indian summer, his friends gathered round him and Mrs. Choate, rejoicing to pay their homage, on the occasion of the Golden Wedding, to a life that had rendered such noble service to two great countries, and beside the memory of that softly declining day I place in thought the sunset that came five years later, when, after welcoming the representatives of England and France, he passed from among us happy in the knowledge that that for which he had so earnestly hoped and striven had been achieved, and that his country had taken her stand as the champion of right and liberty in the greatest cause for which nations have ever fought.

I am,

Very faithfully yours,

(Signed)

JAMES BRYCE.

LETTER FROM

CHARLES W. ELIOT

Joseph Hodges Choate was a genuine product of democratic society at its best. His life and character illustrate the importance, in a democracy, towards individual success and happiness, of good inheritances, both physical and moral, sound education, the power to work intensely and with enjoyment, diligence and thrift, professional ambition and faithful citizenship.

His parents and grandparents were Salem people of the best sort; and through them Choate drew precious qualities from the adventurous seafaring life of the New England ports, and from the sober, conscientious, low-paid professional life and simple domestic life of the first half of the nineteenth century. He felt a strong interest in his Salem ancestors, and was well content that many of them followed the sea. When he was Ambassador to Great Britain, he took much pains to look up some of his English forebears, and was glad to find that Choate was an old name among the better sort of English yeomen.

His parents were keenly interested in the education of their six children, and made many

sacrifices to procure for them the best training which Salem and Massachusetts then afforded. What Choate said of his own father and mother will forever be true of every worthy commonwealth: "Fathers and mothers such as I have described mine to have been do really constitute the pride and glory of the Commonwealth." The support given by these parents to their children did not cease with the completion of their "education" in the technical sense. When Choate went to New York in the fall of 1855 to begin his career at the Bar, it was his father who provided the forty dollars a month on which Choate thought he could live, and did live for a time.

While in College and the Law School, Choate acquired and exhibited a remarkable power of mental application, and of working at once accurately and rapidly—the sufficient fruit of any education. This power was the great means of his success at the Bar and in the public service. He could master quickly the facts of a new case, the brief which another had drawn for him, or the underlying principles of a great subject which he had never before studied much. In the use of his extraordinary gifts and powers he was very diligent, working long hours every week, and allowing himself no proper vacations or recesses until he was an old man. At last, he set up an inviolable two months' summer vacation at Stockbridge, but on the ground that at his age he could do more for his clients in ten months than he could in twelve. He himself believed that his good bodily constitution carried him safely through many years of unreasonably severe professional labors; but doubt-

less plain living most of the time, and liking for walking as an exercise contributed to the fortunate result. His labors were lightened by a lively sense of humor, a quick perception of the amusing elements which often enter into grave situations, and a cheerful temperament. In conversation his wit sparkled genially, and in public speech it was, as a rule, gay and enlivening; but sometimes in court or on the political platform it was audacious and formidable.

Thrift was one of Choate's characteristics. As soon as he earned an income which exceeded his moderate expenses he began to save and accumulate. He and his wife began their married life on a modest scale, which was gradually enlarged; but looking back in his eighty-third year on those early experiences Choate records: "We were able by dint of a reasonable frugality to lay aside from year to year about half our income." The result was as sure as it was well deserved. In the American democracy, with its free education and its social fluidity, the steadily thrifty people, who are spared ill-health, are quite sure to be able to transmit to their descendants education and the comforts and refinements of life.

From his youth up professional ambition was a strong motive with Choate. While he was studying law, he liked to watch the leading lawyers of the day at work in the court-room before judge or jury, and to estimate the qualities which gave to each his eminent success. It was the advocate rather than the judge that he admired and emulated. The contest itself invited him. It was a delight to him to gain a suit, particularly if the odds

were against his client. In the cause of a man to whom he thought a grave injustice had been done—like Gen. FitzJohn Porter, for example—he would put forth all his strength, and find a sufficient reward in the joy of the encounter, and the righting of his client. He enjoyed an arduous trial before a jury, better than a quieter trial before a judge. His ambition was an honorable one; it was stimulated by frequent conflicts with able rivals at the Bar, and it was abundantly gratified.

In his family life at Salem, and during his student life at Harvard University, Choate imbibed the idea that every worthy citizen should win for himself and his family a satisfactory support, but should also give much time and attention to public service; and he put this teaching into practice all his life. Although he was by early association and habit of mind an intense New Englander, he had no sooner established himself in New York as a rising young lawyer, than he began to interest himself in all movements to promote the welfare of the great city, and particularly to improve its government. There was no genuine reform movement, and no sound charitable or social enterprise, that did not look to Choate for sympathy and help, and seldom in vain. He began his long service as a political speaker in 1856 during the Frémont campaign, and ever after gave time and thought generously to that sort of public duty; although, as a rule, he declined to be a candidate for political office either elective or appointive. He gave to the New York public disinterested service on many boards of trustees having charge of valuable institutions.

When he was sixty-seven years old, and had

attained unquestioned eminence at the Bar, Choate accepted appointment as American Ambassador to Great Britain, and served in that capacity for six years (1899-1905) with great acceptance both abroad and at home. He enjoyed the opportunity to compare the British legal institutions and practices with the American, and to hold friendly intercourse as a peer with many of the leading men of Great Britain and other European countries. He moved with ease in English society as it was before the War, still showing many traces of the Feudal System, and illustrated perfectly in his high office the New England ideas of good birth, good family stock, democratic opportunity for capacity and character, and the appropriate rewards for intellectual superiority and hard work. His service as First Delegate from the United States to the International Peace Conference at The Hague in 1907 was congenial, professionally appropriate, and vigorously performed; although his advocacy of neutral and non-combatant rights in wartime, long urged by the United States, could not prevail against various European policies of that day, policies which the Great War was soon to make intelligible to everybody.

When the United States went to war with Germany, Choate, who had strenuously opposed both the first and the second election of Woodrow Wilson to the Presidency, and had freely uttered unfavorable opinions of several members of his Cabinet, expressed generously his admiration for recent addresses made by the President, and for the measures the President was advocating before

24 Letter from Charles W. Eliot

Congress and the American people, and thereafter supported every measure proceeding from Congress or the Administration which looked to the vigorous prosecution of the War. In the last months of his life, it was the successful prosecution of the War which occupied his thought, and inspired his action. For him it was a war for human liberty and a lasting peace, to be won and maintained by superior morality and superior force.

Altogether, Joseph Hodges Choate was a fine type of nineteenth-century American manhood, and a shining example to that of the twentieth.

(Signed) CHARLES W. ELIOT.

Cambridge, Mass.

January 14, 1918.

CABLE MESSAGE FROM
THE RT. HON. ARTHUR JAMES BALFOUR

DEAR MR. PUTNAM:

It is with the greatest pleasure that I respond to your invitation to send a message to the meeting summoned to honour the memory of Mr. Choate.

I had the pleasure of Mr. Choate's friendship during the whole period of his Ambassadorship in London, which happened to fall within the time when I was Leader of the House and Prime Minister, and I was, therefore, brought into close touch with him not only in the sphere of private life, but in that of great international transactions.

He was admirable both in his warmth of heart and his quickness of perception, and his humour made him a delightful companion; while in public affairs, his directness, his high sense of honour, his power of effectively expounding his own case and of rapidly grasping the case of those with whom he was dealing, made him a diplomatist of the first rank.

Let me add that, beneath all the passing subjects of international interests, and sometimes of international difficulty, which from time to time occupied the attention of his Embassy, he per-

ceived with unerring clearness the fundamental unity of ideals and of character which bind together America and Britain.

Next to his own country, I believe he loved mine, and by his personality, not less than by his exertions, he earned the gratitude of the old world as well as of the new.

He left England in 1905. I did not see him again till May, 1917, and then we met for the last time.

When the British Mission visited New York, he was the first to greet us when we landed at the Custom House, and his was the last hand I grasped before leaving the City.

During the strenuous and moving scenes which filled the intervening hours, his eloquence, his vigour, his eternal youth, were perpetual sources of wonder and delight.

He exulted in the great part which America was destined to play in the great struggle for liberty; and when on Sunday we parted at the Cathedral door, it was in a mood of high hope that he said to me, "We shall not meet again till peace is declared."

But the peace which was to be his (though we could not know this at the moment) was serener far than mortal statesmanship can compass or earth-born treaties secure.

On the Monday night he died, and as few lives have been fuller or more distinguished so no death could well be happier.

Believe me

Yours very truly,

ARTHUR JAMES BALFOUR.

ADDRESS OF
THEODORE ROOSEVELT

MR. PRESIDENT, FELLOW-MEMBERS:—Mr. Root has set forth the private side of Mr. Choate's life in a way that renders it almost impossible for anyone to add much to what he has said, and Mr. Choate as a lawyer will be dealt with by one peculiarly competent to deal with him. I shall speak mainly of Mr. Choate's public services. Yet I want to add just a word or two about Mr. Choate in his private relations.

I doubt if anyone could wish to have, after death, anything said of him better than was said of Choate by Balfour in the letter to which we have just listened; for there was a man with the indefinable charm of distinction writing of another man who also had the indefinable charm of distinction. One of Choate's great friends, a man who was his superior in diplomatic position at the time that Choate filled the great and honorable place of Ambassador to Great Britain, was John Hay; and Choate and Hay both rendered to American public life the service which American public life especially needs to have rendered it, the service of the holding of high public position by men to whose

native dignity of character is added the dignity that comes from education and from life-long association with men of refinement.

In the highest and truest sense of the word there could be no truer product of a democracy than Choate or than Hay; but they had all that distinction, all that charm, all that quality of being a gentleman which we like to think that there is nothing in democracy that excludes. And it is a very real service to this country to have public men of the stamp of Choate and Hay in it. Aside from the specific services they rendered their mere being in public life was an asset to the country. I was President during part of the time that John Hay was Secretary of State and Choate Ambassador to Great Britain, and I was always certain that anything they did would be marked by the quality of a high and fine courtesy. I could count in their case that there would never be any chance of a *fortiter in re* being marred by a *vulgariter in modo*. And I think that your distinguished President, who, for my great good fortune, was afterwards associated with me as Secretary of State, I think that he will agree with me that now and then those in high office in American life wish that their efficient champions had a little better manners. It is never pleasant to win a diplomatic victory and then to feel like apologizing for some of the expressions used in winning it.

Mr. Choate was, as Mr. Root has said, pre-eminently the good citizen, pre-eminently the man of stainless integrity, of a high-mindedness such that everyone who was in any shape or way associated with him took it for granted. It was a

pleasure to be in the room with him; it was a pleasure to be associated with him in any way. You will notice that almost everyone who has spoken or written of him this evening has alluded to his sense of humor—even President Eliot.

Choate, like Hay, was one of those very, very rare men who actually say the things that ordinarily we only read about in writings that tell of the sayings of the contemporaries of Horace Walpole. Both Choate and Hay actually said the things that the rest of us only think of afterwards and then wish we had said them at the time.

I don't think that there will ever be a more charming and lovable bit of humor, a bit of humor casting a more delightful light on the character of the man and his surroundings, than Choate's famous expression when asked what he would most like to be if he were not Mr. Choate and he said, "Why, Mrs. Choate's second husband."

Of course, as we all know, his humor was sometimes more mordant. I shall never forget one incident at a reception at the then Vice-President Morton's. There was present a thoroughly nice lady—of possibly limited appeal—to whom Choate spoke; whereupon, with a face of woe, she began to relate how much she had suffered since she had last seen him on account of an attack of appendicitis and of the operation thereby rendered necessary. After Choate had expressed his sympathy two or three times the lady said, "I didn't know whether I had changed so that you would not recognize me." Mr. Choate replied, "Madame, I hardly *did* recognize you without your appendix." That

I heard myself; and the good lady's face looked exactly as if a sponge had been passed over it.

I think the only time that I personally ever saw Choate meet his equal in any such encounter was once when Tom Reed was present. It was at a dinner at ex-Senator Wolcott's. Senator Wolcott—I am not speaking of him ancestrally, but in his individual character—was not a Puritan. (I am cultivating the habit of diplomatic reserve.) The conversation turned on horse racing. Senator Wolcott was feeling rather impoverished in consequence of his experience at the last race meeting. Choate remarked, "I never drink to excess, gamble, or bet on horses." Wolcott responded with a sigh, "Oh, I wish *I* could say that." Whereupon Reed, with that nasal drawl of his, said, "Why don't you? Choate has said it."

Mr. Choate while Ambassador to England rendered two types of great service. In the first place he was the kind of Ambassador who achieved the good-will so strikingly shown to-night, so strikingly proved to-night by the letters of Balfour and Bryce. That is no small service in itself. It is a curious thing that the ninety years' period during which—well, I don't know that it is so curious a thing; it is a lamentable thing; I will put it that way—that the ninety years' period during which Great Britain ingeniously showed toward America a hostility which usually irritated without cowing, has been succeeded by a fifty years' period during which the average American demagogue has sought publicity by being ill-mannered toward England; and under such conditions the service rendered by the men of the calibre of Choate as

Ambassador are in themselves of great consequence to this country; of such consequence that we cannot afford to ignore them in our estimate of the worth of any Ambassador.

In addition to this, however, Mr. Choate played a great and distinguished part in connection with three international matters of the highest consequence: the Alaska Boundary, the open door in China, and the Panama Canal. The open door in China was one of those diplomatic triumphs necessarily ephemeral, because it could only be permanent if backed by force; and we chose to delude ourselves into the belief that a "scrap of paper" was of more permanent consequence than events proved. Nevertheless, it represented a real—a temporary, but a real—diplomatic gain of great consequence, and Choate and Hay share the honor, not unequally, of that achievement.

Ambassador Choate also played a distinguished part in what was the opening stage of the securing and digging of the Panama Canal; that is, in the abrogation of the Clayton-Bulwer Treaty; unless that treaty had been abrogated the Canal must either have remained unbuilt or have been built at the cost of a substantial measure of estrangement between Great Britain and ourselves. It was a real triumph to have secured the abrogation of the treaty—accomplished partly through Mr. Hay, partly through Ambassador Choate, partly through Lord Pauncefote, and partly through Mr. Balfour himself. In its first draft I do not think that the treaty was satisfactory. It was rejected by the Senate, as I think quite properly because—and it shows the curious, and, I am

tempted to say, early Victorian innocence of both nations—we tried to secure an international guarantee for the neutrality of the Canal by asking Germany and France to help us guarantee it! Think of the complications that such a joint guarantee would have led up to during the last three and one-half years, during the two and one-half years before we found out that Germany was our foe—a discovery which we made in leisurely fashion. Following, of course, upon the abrogation of the Clayton-Bulwer Treaty was the attempted treaty with Colombia which Colombia asked us to enter into; her then effort to blackmail the French Panama Canal Company out of an additional \$10,000,000; the refusal of the French Panama Canal Company to submit to the blackmail, relying on our promise to protect her; the secession of Panama, and the building of the Panama Canal,—in all of which Mr. Choate was only indirectly concerned. My own part in it may perhaps be explained by the fact that I deemed it better not to have half a century of debate prior to starting in on the Canal; I thought that instead of debating for half a century before building the Canal it would be better to build the Canal first and debate me for a half century afterwards.

The Alaska Boundary dispute was one of those disputes which contain within themselves the very ugliest possibilities. Its settlement was of prime consequence; and with its settlement disappeared the last question which could not be arbitrated between Great Britain and the United States.

I have spoken of the great services that Choate

and Hay together rendered. On the occasion of the Alaska Boundary dispute the great services were rendered by Choate and Root together. And I think that their attitude in the closing phases of that transaction furnished the exact model by which all American diplomats should guide themselves in any similar matter where it is necessary to insist unflinchingly on the rights of our country, and equally necessary to do it with the utmost courtesy, forbearance, and generosity toward the friendly country with which we are dealing.

So, Gentlemen, it was the great good fortune of Mr. Choate, in the closing period of his active career, to render distinguished service to American diplomacy, and therefore to the American nation. This was the closing service of his active career. Yet, even when he had retired, he continued to render very, very real service. From the beginning of the Great War he declined to hold his judgment in abeyance as between the conflicting powers. I remember some time in the fall or early winter of 1914, when he presided at a meeting on behalf of the Belgians, when he recited the atrocities that had been committed by Germany on Belgium, and said: "Germany has assured us that in the end she will pay Belgium. If Heaven is willing, she *shall* pay in full!" Toward the end of our period of neutrality, in common with the major portion of our people, Mr. Choate grew restlessly unwilling longer to submit to the treating of right and wrong with the same cool and indifferent friendliness. I never shall forget the expression of which he made use when

finally we went to war, or, to speak more accurately, acknowledged that we were at war,—we had been at war for some time,—acknowledged that we were at war; whereupon Choate said, “At last I can go about with my head erect, unafraid to look strangers in the face.”

Mr. Choate was one of the great assets of our national life, a great citizen, a great lawyer, a great diplomat, and, as Elihu Root has said, he himself in his person was greater than anything that he did.

ADDRESS BY

FRANCIS LYNDE STETSON

Invited by your Committee to read a paper this evening upon Mr. Choate as a lawyer, I hesitated to consent, saying that superior fitness for this important duty had been shown already by three Centurians, Mr. Strong, Mr. Rowe, and Mr. Guthrie. But I was met with the reply that excepting one other I was the oldest living lawyer member of The Century and that I could not shift the obligation attaching to seniority. The argument though far from convincing was conscriptive, and obediently I am here. Since then our President Mr. Root has delivered before the City Bar Association a masterly memorial address, so comprehensive as to leave unconsidered no feature in the many-sided life of our departed friend. So I shall undertake to comply with your invitation not by traversing again the field so fully and so finely occupied by these superior husbandmen, but merely by presenting briefly my personal appreciation of the remarkable professional qualities of Mr. Choate.

His qualities were so manifold that to speak of him as a lawyer only seems to lose sight of most

that endeared him to our public, and to follow him into the workshop, instead of through the great world where for more than fifty years, day in and day out, he devoted himself to the instruction and the entertainment of his fellow-men, to the very limit of his great abilities.

But considered even within the lines of his chosen profession, he is to be described as the advocate more than as the lawyer. There have been profound lawyers like Mr. Southmayd who were not advocates, and there have been great advocates like Wendell Phillips who were not lawyers. And again there have been lawyers like Mr. Webster and Rufus Choate whose power of advocacy was so preponderant as to outweigh and in a measure to obscure their extraordinary capacity as craftsmen. But, like James Scarlett (later Lord Abinger) at the English Bar, Mr. Choate at the American Bar was *par excellence* the Advocate of the Trial Courts.

For his high service as such, he combined most of the many necessary qualifications in such an unusual degree as to set him apart from his fellows, and to mark him for special admiration alike by them and by the general public.

Some, though not all, of these essential qualifications were indicated by him in his fine tribute to the memory of James C. Carter in language which may well be quoted with reference to himself and as illustrating his own high professional ideals. He there said:

“Let me try very briefly to trace the personal qualities which were the weapons by which he

won the victory. * * * He had a very sound mind in a very sound body. His conscience was clear as crystal and never went back on him as it sometimes does on men whose mental vision is less clear than his. Absolute independence was the controlling feature of his life. He was not without a large share of self-assertion and yet he was one of the most unselfish of men. He was imbued with a high sense of public duty and was ardently patriotic. His power of labor was prodigious. By nature he was warm-hearted and magnanimous. He honored and magnified his profession."

This enumeration, however, would be incomplete if applied in respect of Mr. Choate, who possessed also most of the many other traits regarded as necessary to the greatest success by Mr. Cox in his instructive and analytical essay upon "The Advocate." Some of these characteristics of Mr. Choate may be mentioned. He had a capacity for prolonged labors continued without sleep. He once cited the instance of Sir Roundell Palmer (Lord Selborne) still at work on Wednesday morning though having had no sleep since the preceding Sunday. Such cases are not without parallel at our own Bar. He had also honesty of purpose, truthfulness of nature, benevolence of aim, love of justice, and detestation of wrong. In a remarkable degree he was quick to feel the moral atmosphere of his tribunal. None was more alert than he in close and concentrated observation of judge, jury, witnesses, and opposing counsel, nor could any more quickly conform to any change, however sudden or unexpected. He seldom had occasion for vain regrets over a failure to say at

the proper moment the proper thing. His intended speech was completed in the court-room and not in his homeward bound cab. His swift and sure perception, and his vivid and sensitive imagination were supported and directed by a prompt and sound judgment. For the exercise of all these great native powers he was fully fitted temperamentally, for he was courageous, strong-willed, self-confident, cautious, and firm. Beyond all others he maintained habitually complete command of temper and self-control.

This specification of his qualifications may seem unduly extended, but in my opinion, and I believe in the opinion of lawyers who have had opportunity of observing his conduct in the court-room, they are not all that might justly be attributed to him.

No classification general in terms could embrace this Darling of the Gods and of Men, unique in a charm which was all his own. He had a beautiful person and a winning address and a strong voice with smoothness and fluency of speech. In his shining grace and sure swiftness of movement he excited and captivated the admiration of those whose favorable regard it was his bounden duty to win. Not the thunderbolt of Jove, but a shaft of Apollo, luminous and gleaming with fun, and drawn from a full quiver, was his preferred weapon, which he aimed to lodge in the consciousness of his willing hearers, and generally with such sure effect that it might be said of him as of Scarlett, that when he spoke there were thirteen men in the jury box. As occasion seemed to require, but without loss of dignity or of his native refinement,

at times he would assume the part of the laughing cavalier. Indeed, his contagious humor might be taken as his distinguishing feature. During the last fifty years at the New York Bar hardly more than four of its leaders have been notable for their wit—Mr. Evarts, whose lambent humor tickled and illuminated, but never scorched; Francis N. Bangs, whose brilliant thrusts flashed like a meteor with a train of burning sparks; Frederic R. Coudert, of Gallic vivacity; and Mr. Choate, the fun-maker. His fun was a veritable bonfire around which his hearers gathered and warmed themselves, and in the fire was his point, which later they felt, whether or not at first they saw it. He was the most dangerous adversary at the American Bar of later days, although the late John G. Johnson was the most formidable. By this I mean that while from the very outset of a trial Mr. Johnson inspired among his adversaries anxiety and often terror, Mr. Choate was always suave but no less effective in attack, and he overcame his opponents without prior alarm or shock and almost without pain. His method was all his own. As observed by a chemical friend, "It was Choatide of Chodium."

His lofty leadership was attained by no easy-going gait or by merry jaunting. He climbed the heights by virtue of determined will and unrelenting effort. He might again have been speaking of himself when in 1907 he said to the New York State Bar Association:

"I have known the leaders of the Bar on both sides of the Atlantic and in this respect the same

rule prevails. There is every variety among them of physical, mental, and moral qualities. No two are ever alike in personal characteristics, except in one essential and vital quality which is common to them all. I mean the power and will to hold on and hold out under all circumstances and against all counter inducements until the goal is reached. This indomitable tenacity of purpose with brains, health, and character insures success and leadership."

He had and he exercised habitually power of concentrated and continuous mental application notwithstanding his disclaimer in this same memorial of Mr. Carter, when he said:

"His mental endowments were of a very superior and splendid quality and he appreciated his own intellectual powers and reveled in the exercise of them. Thinking, which to most of us is a painful and tiresome process, he delighted in, and pursued it as a most fascinating game. His mind was of a decidedly philosophical turn, fond of considering and solving all the problems of human society and progress—and the reasoning powers which in most of us are dwarfed and twisted, in him were naturally and fully developed. Logic as a pastime was as acceptable to him as golf or bridge is to the average man to-day."

Indeed it was quite usual for Mr. Choate to speak lightly of the thinkers. When I told him that Mr. Carter had referred to a lawyer friend as "a man whom an idea intoxicates," he replied, suggestively, "There are others."

It is true that the philosophy of the law engaged his attention less than it did that of Mr. Carter,

but, nevertheless, underlying all of his apparently casual discussion was a solid and substantial basis of learning and reflection.

The path by which Mr. Choate attained the pinnacle of success was that pursued by eminent predecessors from time immemorial and that which still must be pursued by those who would follow him. He himself described it in his 1905 address before the New England Society. The youth of limited means but of clear and sturdy integrity, diligent in his studies and courteous in demeanor, attracts the regard of some lawyer of eminence and liberal disposition—in this case, a remote kinsman Rufus Choate—and bears a letter from him to another great lawyer, William M. Evarts. As generally in the experience of the bearers of such letters there is no immediate result. He turns to a college friend and finds modest opportunity for service. Then he endeavors to conduct an office of his own in association with a youth remarkable for his gift of eloquence, William H. L. Barnes, later of San Francisco. After the lapse of four years the Rufus Choate letter bears fruit, and an invitation comes from Mr. Evarts to join his firm, then receiving an annual income of \$20,000, moderate enough according to present standards for a law firm of commanding importance in New York and throughout the country. There he finds congenial and stimulating companionship with the versatile Evarts, of whom, he said, "I owe him more than words can tell," the erudite and caustic Southmayd, his constant and never-failing fount of legal learning, and the polished and impressive Charles E. Butler. Thus at once

he was plunged into a great volume of business in an old and established firm of which the elder members were already overworked. From that fortunate moment he had never need to seek a retainer or to worry about income. Of course such favoring conditions tended to induce the genial serenity which enhanced the attractiveness of his handsome face and person, and to develop the naturally buoyant waggishness that even then led Professor Dwight in the familiarity of close personal intimacy to dub him "Jocose." By his brethren generally, he was referred to affectionately, but never with disrespect, as "Joe Choate," reminding us of the familiar appellation of a much loved Englishman of Letters "whom men know as Lord Houghton, but whom the gods call Dicky Milnes." With each of these great men, loving friendship was the dearest of possessions.

His great powers were employed always under a clear and abiding sense of the profound obligations of the advocate as declared by him in many public utterances wholly consistent with his own professional conduct. He regarded it as a duty to hold himself ready to respond to the call of those needing his professional service, irrespective of the merit of themselves or of their cause. This obligation was described by him in his memorial of Mr. Carter of whom he said:

"He was very far from restricting himself to causes that he thought he could win, or to such as were sound in law or right in fact. No genuine advocate that I know of has ever done that. He recognized and maintained the true relation of the advocate to the courts and the commu-

nity; that it is a strictly professional relation and that either side of any cause that a court may hear the advocate may properly maintain."

Mr. Choate saw clearly the possibilities of cruel injustice to those who either in appearance or in fact had incurred the penalties of the law, if at the very outset they were to be denied all opportunity through competent professional assistance either to prove themselves free from legal fault or to bring their punishment within limits prescribed by law. So he stood ready as an advocate in the halls of justice to present any cause which it was the duty of the courts to hear.

For him the highest duty of the advocate was to be loyal to the client and to the cause that he had undertaken to maintain or to defend. "I have made it my rule never to neglect a case, no matter how unimportant it may seem." To win the case which he had undertaken to win was his obligation, and to this end he spared no effort and he rejected no expedient within the bounds of honorable conduct. As Mr. Strong has said, "When hard-pressed he took refuge in a technicality if it happened in his way." He did not accept all of Lord Brougham's notorious declaration as to the exclusive and unlimited obligation of the advocate to his client, but neither did he reject all of it. His own opinion was expressed in this delineation of Rufus Choate:

"His theory of advocacy was the only possible theory consistent with the sound and wholesome administration of justice—that

with all loyalty to truth and honor, he must devote his best talents and attainments, all that he was and all that he could, to the support and enforcement of the cause committed to his trust," and (quoting Mr. Justice Curtis, one of the most high-minded and conscientious of lawyers and judges) "in doing so he did but his duty. If other people did theirs the administration of justice was secure."

The duty of the advocate to maintain the dignity and the honor of the courts of which he is a minister he felt and fulfilled in the highest degree. The very atmosphere of the court-room was clarified by his presence and its conflicts were ennobled by his participation. This duty as well as that of guarding and maintaining a high standard of public morality were regarded by him as in the light of a sacred service, as presently we shall have occasion to note.

The court-room, especially the trial court, was the arena in which he found daily delight, for he felt to the full the joy of contest—*gaudium certaminis*. His appearances there were almost continuous from October to June. It is doubtful whether any other member of the New York Bar appeared in so many cases and so various, though in this particular as in many others a parallel may be found in the great career of his junior competitor John G. Johnson of Philadelphia, who by only one month preceded him into the great hereafter. Each of these remarkable men eschewed mere dialectics and refined historical phrasing, and each passed every proposition through the alembic of his common-sense. To simplify abstruse

problems, to clarify cloudy or obscure cases was with each the fundamental philosophy. Neither talked "like a book," but like our great master of style, Abraham Lincoln, each sought the simple and often the homely phrase with which to win, not to dazzle, the mind of his hearer. For Mr. Choate the familiar narratives of the Bible, and even of the Books of Nursery Tales—Balaam's Ass, the Cave of Adullam, "The House that Jack Built"—became potent and sufficient illustrations. His eminence was based upon his exceptional knowledge of human nature even more than upon his learning as a student of the law, for which confessedly he relied much upon Mr. Southmayd. How clearly he comprehended the mental modes of the average man, including the judge on the bench, is illustrated by the account given by Mr. Strong of Mr. Choate's voluntary and friendly appearance in behalf of Mr. (now Judge) John W. Goff when arraigned for contempt before a most upright and resolute judge, Recorder Smyth. In presenting the case Mr. Choate declared that the contempt charged had not been committed because on that particular occasion Mr. Goff's conduct was not what Recorder Smyth declared it to be:

"But," interrupted the Recorder heatedly, "I saw him do it." "Then," replied Mr. Choate quite calmly, "it becomes a question of course between your Honor's personal observation and the observation of a crowd of witnesses who testified to the contrary. Was your Honor ever conscious of being absolutely convinced from the very outset of a trial that a certain person was guilty? If not, then you are more than

human. Was your Honor ever conscious as the trial proceeded that it was impossible to conceal your opinion? If not, then you are more than human. Well, that has happened in many courts and time and again when it does happen it arouses the aggressive resistance of every advocate who understands his duty; and he would be false to his trust if it did not arouse him."

Before this suggestion of an issue of fact, possibly of veracity, the excellent Recorder receded, and contented himself with a general admonition to the lawyers present to be good boys in the courtroom.

Brief reference may now be made to two or three cases of public interest in which Mr. Choate appeared.

I agree with his own estimate of the high importance of the case of FitzJohn Porter, whose unjust conviction and degradation by a court-martial was reversed and whose military rectitude was vindicated after a lapse of a score of years through the mighty effort of Mr. Choate.

Next, I should place his extraordinary success, despite the powerful reasons to the contrary (set forth in the dissenting opinion) in the United States Supreme Court, in freeing from trial for murder, U. S. Marshal Neagle, who, in protection of Mr. Justice Field, whom he was attending in Lathrop, California, had there shot dead his assailant, David S. Terry. It was not doubted that the killing was justifiable, but there was presented for affirmance the novel point that this question of fact could be withdrawn from a jury and could be

determined in the affirmative by a judge upon a writ of *habeas corpus*. In maintaining this proposition of overwhelming importance for the protection of courts in the discharge of their official duty, Mr. Choate demonstrated his own great ability and public spirit and justified the confidence in his professional capacity by Mr. Justice Field, who for the defense of his protector chose Mr. Choate out of the entire American Bar. Could there be higher testimony than this, from a court supreme in America and without superior in all the world?

Mr. Choate's part in the Income Tax cases of course was highly important, but for two reasons I do not rank it so highly as do some others. In the first place the credit as well as the responsibility for the origination, the presentation and, in large measure, the winning of these cases, in my personal observation, was due primarily to our fellow member Mr. Guthrie. In the second place the attitude of Mr. Choate towards the Income Tax and his argument in these cases illustrates a characteristic feature in his mental make-up. Ever benevolent in every case of individual hardship, he had abiding doubt as to the validity of the claims of what are called sociological reforms. He did not fully appreciate the deep, persistent, and powerful determination of our people not to submit to what they regarded, and what in this particular the courts previously had decided to be, an attempt unduly to limit the powers of their representatives in Congress. The adequacy of that power and the propriety of the exercise of that power in the Income Tax Law were asserted in masterful argu-

ments then presented by Attorney-General Olney and Mr. Carter and adopted in the dissenting opinion of Mr. Justice White. Since then those arguments have found practical and compelling expression through the adoption of an amendment to the Federal Constitution, through what may be recognized as little less than a social revolution.

This ultimate result had been forecast in the arguments of Mr. Olney and Mr. Carter, who intimated that among the possibilities of departing from the former decision and of overthrowing a law looking to a distribution of the burdens of taxation according to ability to bear the burden, was the stirring up of a "popular wrath that might sweep the court away." The warning seems to have been justified by the event, for when after re-argument the divided court rendered decision overruling the act of Congress with the concurrence of one Justice who on the first argument had voted otherwise, Mr. Bryan found ample opportunity for his terrifying campaign of 1896, and his taunt:

"They say that we passed an unconstitutional Income Tax Law: well, it wasn't unconstitutional until a judge changed his mind, and we couldn't know that a judge was going to change his mind."

The thrust was so keen that in conversation with me Mr. Choate said, "That was very sharp; it was the best part of his speech."

The argument of Mr. Choate was based upon this proposition:

"I thought that the fundamental object of all civilized government was the preservation of the right of private property. That is what Mr. Webster said at Plymouth Rock in 1820, and I supposed that all educated men believed it."

This declaration, of course, contains an important truth, but is it now as certain as in 1820 it might have seemed to be, that the essential truth of the declaration is challenged by a proposition to appropriate property's surplus income for the support of government, even a government with greatly widened activities? Is it unfair to let the burden of taxes for national purposes follow the accumulations of wealth, regardless of sectional distribution, into every part of the country under national protection? Would Mr. Choate to-day lay the emphasis just where he did? Could he or could any one else in the light of present conditions assert unqualifiedly that the preservation of the right of private property "is the fundamental object of all civilized government?" But, it should be repeated, his position then taken professionally and from a sympathetic and anxious desire to maintain the provisions and the limitations of the Federal Constitution in their strictest sense implied no disregard for the sufferings and burdens of his fellow-man to which he was as keenly sensitive as was any supporter of the legislation there denounced by him.

In the case of Laidlaw against Russell Sage, won by him before every jury and lost by him in each Appellate Court, there was no limit to his sallies upon the defendant or upon the defendant's counsel, for here as always he was audaciously personal,

frequently and intentionally pushing his opponents beyond the bounds of self-control, though seldom to the rupture of personal relations.

In the Sage case he deemed it necessary and he found it sufficient to destroy the prestige of the defendant before the jury by the most minute and pin-pricking cross-examination. When a lady's remonstrance that "Mr. Choate is not respectful to Mr. Sage" was repeated to him, he answered, "Oh, some of my lady friends tell me that I am positively indecent."

Referring to Mr. Sage's statement that something had been done not by him but by his counsel, Mr. Choate said, "I see; you don't do any barking when you have a dog to do it for you." One of the defendant's counsel then asked "Which of us is referred to as the dog?" To which, with his accustomed good nature, Mr. Choate replied, "Oh, all of us." If so, then, at that, they must have been a group of great St. Bernards, no less helpful and kindly than they were sagacious and powerful.

In the Central Pacific Railroad litigations where Collis P. Huntington was defendant, Mr. Choate was opposed by two eminent counsel, Roscoe Conkling and the acute Francis N. Bangs, father of two of our fellow members. Mr. Choate won before the jury but lost finally before the Appellate Court. His powers of audacity and badinage found opportunity for brilliant display at the trial, but the keenest and quickest reply was that made by Mr. Bangs when about to begin his argument to the question of Judge Van Vorst, "How long will your peroration take, Mr. Bangs?" "Your Honor means my *pre* oration, do you not?"

Mr. Choate's often quoted application to Mr. Conkling of Hamlet's apostrophic rhapsody over his father's portrait may have been intended in some measure to appease his late coming opponent, to whom he had turned from his opening address before the jury with the jaunty salutation, "Oh, Senator, are you here—when did you blow in?"

Mr. Choate and Mr. Bangs faced each other finally in the noted trial of *Feuerdant v. Cesnola*, in which Mr. Choate greatly exasperated Mr. Bangs, and finally defeated him. The trial lasted for weeks and was without pecuniary benefit to either counsel, each giving his time, his labors, and, in the case of one, his life, for the discharge of what he deemed a public duty. Mr. Bangs was a sick man during the trial and its incidents and exactions hastened his end. He died a few months later.

The list of cases of first importance conducted to successful issue by Mr. Choate, occupies nearly ten columns of Mr. Rowe's admirable and sympathetic sketch in *Case and Comment* for September, 1917, which may well be consulted by any who desire a fuller account of his court activities than can be given within the limits of the time assigned to me by your committee or permitted by your patience.

The court-room, however, did not absorb all the energies or witness all of the achievements of Mr. Choate as a lawyer. He was a wise and astute counsellor, and his sympathies were readily aroused and earnestly exerted in behalf of those seeking him in trouble or perplexity. His comforting and illuminating advice soothed many pangs

and saved many hearts and homes and fortunes. He affected and perhaps sometimes he felt a cynical indifference to the concoction or to the consummation in legal form of plans for business enterprises, once asking a friend so engaged, "How are you getting on with your clients and damned schemes?" He may have felt as did the lamented Hornblower that he "would rather reap the fruits of litigation than sow its seeds," and yet in this very field when he chose, he was a master of design. He could visualize as well as any a venture into an untried and obscure region of commercial experiment, and few of his clients demonstrated a sounder business judgment than did he in the management of his own affairs. Indeed, his scope was so wide and his success so constant that the general view of him must be of a great man, not merely even of a great advocate. As Ralph Waldo Emerson was described by Matthew Arnold as being not a great poet, but a great man who wrote poetry, so it may be said of Mr. Choate that whether or not the most learned in the law certainly he was a great man who practiced law.

But his greatness burst the bounds of professional vocation and enlarged the sphere of American influence as you have been told to-night by our eminent and powerful leader Colonel Roosevelt, whose presence and address we sincerely appreciate and for which we thank him.

During the notable seventeen years after 1899 Mr. Choate gave to his country and to mankind a service as glorious as any rendered by almost any member of our profession or by any on the field of battle.

In 1898 he received and accepted the call of President McKinley to go as Ambassador of the United States to Great Britain, and there "to promote the welfare of both countries by cultivating the most friendly relations between them." How wonderfully he accomplished this mission is indicated in the volume of addresses in England published under the title *Abraham Lincoln and Other Addresess*. In the scope and death of these eleven addresses of which seven concerned exclusively Americans or America, every true American will find fresh cause for admiration of the delightful speaker. I can quote now from only one of them, noteworthy for its range and raciness, that delivered at the dinner given to Mr. Choate by the Bench and Bar of England at Lincoln's Inn, April 14th, 1905. Rollicking fun and tender pathos alike lighted the avenue to his hearers' hearts. For example of fine foolery take this:

"Our barristers appear in plain clothes in court. The Judges—some of them—wear gowns, but never a wig. I think it would be a very rash man that would propose that bold experiment to the democracy. If the Lord Chancellor had wished that our primitive and unsophisticated people should adopt that relic of antiquity and grandeur he should not have allowed his predecessors in his great office to tell such fearful stories about each other in respect to that article of apparel. We have read the story of Lord Campbell as given in his diary annotated by his daughter, as to what became of Lord Erskine's full-bottomed wig when he ceased to be Lord Chancellor. That it was purchased and exported to the coast of Guinea

in order that it might make an African warrior more formidable to his enemies on the field of battle. We have a great prejudice to anything that savors of overawing the Court, overawing the jury, and if any such terrors are to be connected with that instrument, our pure democracy will never adopt it."

And then listen to this fascinating tribute to the Chairman, Lord Chancellor Halsbury:

"I am especially proud that the chair is occupied by the Lord Chancellor whose name in both countries is a synonym for equity and justice. In spite of his thirty-five years at the Bar and his eighteen years upon the woolsack, he is the very incarnation of perennial youth. Time like an ever-rolling stream bears all its sons away, but the Lord Chancellor seems to stem the tide of time. Instead of retreating like the rest of us before its advancing waves he is actually working his way up stream. He demonstrates what I have been trying to prove for the last three years that the eighth decade of life is far the best, and I am sure he will join with me in advising you all to hurry up and get into it as soon as you can."

But the address not merely entertaining and tactful reached a lofty height in this unsurpassed tribute to his profession:

The world struggle dominated him as powerfully as the passion of his early youth for freedom.

"I started in life with a belief that our profession in its highest walks afforded the most noble employment in which any man could engage, and I am of the same opinion still. Until I became Ambassador and entered the

terra incognita of diplomacy I believed a man could be of greater service to his country and his race in the foremost ranks of the Bar than anywhere else and I think so still. To be a priest and possibly a high priest in the temple of justice, to serve at her altar and aid in her administration, to maintain and defend those inalienable rights of life, liberty, and property upon which the safety of society depends, to succor the oppressed and to defend the innocent, to maintain constitutional rights against all violations whether by the Executives, by the Legislature, by the resistless power of the Press, or worst of all by the ruthless rapacity of an unbridled majority, to rescue the scapegoat and restore him to his proper place in the world—all this seemed to me to furnish a field worthy of any man's ambition."

He was zealous for justice and for the good of his country and of the world. He was the head and heart of much more than our Bar.

As a writer and speaker his fame would be secure had he delivered only his addresses on Abraham Lincoln and on Rufus Choate. This last was considered his masterpiece, and when this was said to him, he answered: "Yes, that is the best. I never worked so hard on a speech as on that one." And herein lay an explanation. The finished, flowing, easy, self-speaking address in this case, as in the others, was something that had not merely happened. It was, and most of the others were, the sum of painstaking labor and of earnest reflection.

His ending was almost an apotheosis. At the reception of the British Commission in the City Hall the Mayor of New York hailed him as our first citizen. At that glorious service at the

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Cathedral on the morning of Sunday, May 13th, full of honors, crowned with love, carrying dignity and reverence in his presence, he was in his beautiful old age, uttering a *nunc dimittis*, without precedent since the days of the ancient Simeon.

All honored him and those admitted to his intimacy loved him. In sincerity and love, his own tribute to Rufus Choate may be repeated of him:

EMERSON MOST TRULY SAYS THAT "CHARACTER IS ABOVE INTELLECT AND THIS MAN'S CHARACTER SURPASSED EVEN HIS EXALTED INTELLECT AND CONTROLLING ALL HIS GREAT ENDOWMENTS MADE THE CONSUMMATE BEAUTY OF HIS LIFE."



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